IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 21148 of 2004

Between:

V.P. KUMAR, S/o. Narsimhamurthy,
R/o. Parwathipuram, Vizianagaram District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Parwathipuram, Vizianagaram.
2 The Industrial Tribunal-cum-Labour Court,

rep. by its Chairman-cum-Presiding Officer,
Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari, or any other appropriate writ, order or direction, declaring the award of the Labour court in I.D./No.66/2002, which was published in the Gazettee vide G.O.Rt.No. 1529 dt. 8.9.2004 in confirming the punishment of deferment of annual increment imposed by the 1st respondent, without holding any departmental enquiry vide proc. No.01/138(27)/97-PPM, Parwathipuram, Dt. 12.3.1998 as illegal, unjust, contrary to law and as such liable to be set aside in the interest of justice and further directing the respondent NO.1 to pay the arrears of differed salary in pursuance of the punishment order forthwith.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent No.1: KUM.B.G.UMA DEVI

Counsel for the Respondent No.2: The GP for Labour

The Court at the stage of admission made the following:

ORDER:

The Petitioner is working as a Conductor in the respondent-Corporation. He was issued a charge memo and after receiving the charge memo, petitioner submitted his detailed explanation. After receiving the explanation of the petitioner, the final orders were passed on 12-03-1998 imposing the penalty of reduction of one increment with cumulative effect. The petitioner being aggrieved by the said order as confirmed by the appellate authority and the review authority, raised a dispute before the Industrial Tribunal in I.D.No.66 of 2002 and the Tribunal also confirmed the same. The petitioner questioned the order through this writ petition on the ground that the respondents passed the impugned order without conducting any enquiry as required under the rules.

2. The learned Counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab**[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without any enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

3. In view of the judgment of the Supreme Court in Kulwant Singh Gill (1 supra), the writ petition is allowed. The order of the Tribunal dated 07-05-2004 confirming the punishment of deferment of annual increment with cumulative effect imposed by the 1st respondent is set aside. The punishment imposed by the 1st

respondent on the petitioner is treated as reduction of one annual increment without cumulative effect. The petitioner is entitled for the difference of the amount on notional calculation, by virtue of this order for the period from the date of the impugned order till the date of this order.

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November 18, 2004

KVR

To

1 The Depot Manager, APSRTC, Parwathipuram,

Vizianagaram.

2 The Chairman-cum-Presiding Officer,

Industrial Tribunal-cum-Labour Court,

Visakhapatnam.

3 Two C.Cs. to the GP for Labour,

High Court of AP Buildings, High

Court of AP, Hyderabad.(O.U.T.)

4. Two C.D. copies